

**FEDERAL ELECTION COMMISSION**  
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**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

**MUR: 6832**

DATE COMPLAINT FILED: May 27, 2014

DATE OF NOTIFICATIONS: May 30, 2014

LAST RESPONSE RECEIVED: June 13, 2014

DATE ACTIVATED: January 26, 2015

EXPIRATION OF SOL: May 19, 2019

(earliest)/July 1, 2019 (latest)

ELECTION CYCLE: 2014

**COMPLAINANT:**

Brian Aguilar

**RESPONDENTS:**

Grant Lally for Congress, Inc., and Christopher  
Nolan in his official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30101(22)<sup>1</sup>

52 U.S.C. § 30101(24)

52 U.S.C. § 30120(a)

11 C.F.R. § 100.26

11 C.F.R. § 100.28

11 C.F.R. § 110.11

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint alleges that Grant Lally for Congress, Inc. ("Committee"), the authorized committee of 2014 Congressional candidate Grant Lally,<sup>2</sup> failed to include required disclaimers on the Committee's website, on a Wordpress blog that allegedly belongs to the Committee, and during a robo call. The Committee responds that its website and the robo call contained the proper disclaimers, and that it does not "own" the Wordpress blog. Based on the available information, we recommend that the Commission exercise its prosecutorial discretion and

<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

<sup>2</sup> Lally was a candidate in the general election in New York's 3<sup>rd</sup> Congressional District.

1 dismiss the allegations that the Committee violated 52 U.S.C. § 30120(a) (formerly 2 U.S.C.  
2 § 441d(a)) by failing to include a disclaimer on its website, the Wordpress blog, and during a  
3 robo call and issue a letter of caution. Finally, we recommend that the Commission close the  
4 file.

## 5 II. FACTUAL AND LEGAL ANALYSIS

6 When an authorized political committee makes a disbursement for the purpose of  
7 financing a public communication, the communication "shall clearly state that [it] has been paid  
8 for by such authorized political committee." 52 U.S.C. § 30120(a)(1) (formerly 2 U.S.C.  
9 § 441d(a)(1)). *See also* 11 C.F.R. § 110.11(a)-(b). A disclaimer is also required on websites of  
10 political committees that are available to the general public. 11 C.F.R. § 110.11(a)(1). Public  
11 communications include, *inter alia*, telephone banks to the general public and any other form of  
12 general public political advertising. 52 U.S.C. § 30101(22) (formerly 2 U.S.C. § 431(22));  
13 11 C.F.R. § 100.26. "Telephone bank" means more than 500 telephone calls of an identical or  
14 substantially similar nature that were made within any 30-day period. 52 U.S.C. § 30101(24)  
15 (formerly 2 U.S.C. § 431(24)); 11 C.F.R. § 100.28. "General public political advertising" does  
16 not include Internet communications except for communications placed for a fee on another  
17 person's web site. 11 C.F.R. § 100.26.

### 18 A. Committee's Website

19 In support of its allegation that the Committee's website lacked a required disclaimer,  
20 Complainant attached a copy of a screenshot of the website's homepage  
21 ([www.grantlallyforcongress.com](http://www.grantlallyforcongress.com)) that purportedly shows the website as it existed on May 19,  
22 2014. *See* Compl., Ex. 1. There is no disclaimer indicating that the Committee paid for the

1 website apparent in the screenshot submitted with the Complaint.<sup>3</sup> The Committee asserts that  
2 the website "did have a disclaimer on May 19, 2014" but offers no support for this assertion and  
3 does not specifically address the screenshot submitted by Complainant. Resp. at 1.

4 Based on the available information, it appears that the Committee's website did at one  
5 time fail to include a required disclaimer in violation of 52 U.S.C. § 30120(a)(1) (formerly  
6 2 U.S.C. § 441d(a)(1)). *See also* 11 C.F.R. § 110.11(a)(1). The Committee, however, appears to  
7 have taken remedial action at some point after receiving the Complaint by placing a proper  
8 disclaimer on its website — the website currently contains a disclaimer that states, "Paid for by  
9 Grant Lally for Congress, Inc." and it appears that this disclaimer was present at least as early as  
10 July 26, 2014.<sup>4</sup> Further, even when the website appears to have lacked a disclaimer, it provided  
11 an identifying email address to request more information ([info@lallyforcongress.com](mailto:info@lallyforcongress.com)) and a  
12 telephone number. The Committee also noted its website address on its Statement of  
13 Organization filed with the Commission on February 25, 2014, and thus the website could be  
14 tracked directly to the Committee. Because the website contained some identifying information  
15 and the Committee took remedial action, we recommend that the Commission exercise its  
16 prosecutorial discretion, dismiss the complaint as to the Committee's website, and caution the

<sup>3</sup> An image of the website from May 13, 2014, remains available online at <http://web.archive.org/web/20140513014808/http://grantlallyforcongress.com>. That version of the website also lacks a disclaimer.

<sup>4</sup> A version of the Committee's website from July 26, 2014, (<http://web.archive.org/web/20140726012713/http://grantlallyforcongress.com/>), also contains a compliant disclaimer indicating that the website is "Paid for by Grant Lally for Congress, Inc." *See* 52 U.S.C. § 30120(a)(1).

1 Committee about the disclaimer requirements in the Act and regulations.<sup>5</sup> *See Heckler v.*

2 *Chaney*, 470 U.S. 821 (1985).

3 **B. Wordpress Blog**

4 In support of the allegation that "Lally has another website for his campaign" — a  
5 Wordpress blog located at the address <http://isupportlallyforcongress.wordpress.com> — and that  
6 it lacked a required disclaimer, Complainant attached a copy of a screenshot of the blog that  
7 purportedly shows the blog as it existed on May 19, 2014. *See* Compl., Ex. 2. The screenshot  
8 shows two postings dated March 10, 2014: a reprint of an article from another blog<sup>6</sup> discussing  
9 Lally's candidacy, and a posting with Lally's headshot photograph and a quote from Lally's  
10 announcement of his candidacy. *See id.* Headings on the blog pages include "Lally For  
11 Congress 2014" and "ON THE CAMPAIGN TRAIL LALLY FOR CONGRESS," and tags  
12 above the postings include "Grant Lally," "Lally for Congress," "Long Island," "Lower Taxes,"  
13 and "Third Congressional District of New York." *Id.* At the bottom of the screenshot, the blog  
14 states, "Follow 'Lally For Congress 2014.'" *See id.* There is no disclaimer apparent on the  
15 screenshot.

16 In its response regarding the blog, the Committee asserts that it "does not own the second  
17 website referenced in the complaint" but provides no information about whether it had any  
18 involvement with the content of the blog. Resp. at 1.

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<sup>5</sup> *See* MUR 6213 (DUMPREID PAC) (Commission dismissed and sent caution letter where Committee's website contained partial disclaimer and Committee took remedial action to fix it); MUR 6633 (Republican Majority Campaign PAC) (Commission dismissed and sent caution letter where website contained some identifying information). *See also* MUR 6278 (Joyce B. Segers) (EPS) (Commission dismissed and sent reminder letter where the Committee took remedial action by affixing proper website disclaimer). *But see* MUR 6665 (Alex Pires for U.S. Senate) (EPS) (same; no reminder sent).

<sup>6</sup> The article reprinted on the Wordpress blog, "Grant Lally to Challenge Steve Israel," was originally posted on [www.nystateofpolitics.com](http://www.nystateofpolitics.com) on February 17, 2014. Also on February 17, the Committee posted a link to the same article on its public Facebook page.

1           Though the content of the blog is focused on Lally's campaign, there is no indication on  
2     the face of the screenshot who is responsible for posting the blog. Further, the blog no longer  
3     exists, and the scope of the activity shown in the screenshots is *de minimis*. See Attach. 1  
4     (current Wordpress blog page). Under these circumstances, we need not reach the issue of  
5     whether the blog was a "political committee website" required to include a disclaimer because it  
6     is not worth the use of Commission resources to pursue this allegation.<sup>7</sup> See 11 C.F.R.  
7     § 110.11(a)(1). Accordingly, we recommend that the Commission exercise its prosecutorial  
8     discretion and dismiss the Complaint as to the Wordpress blog.

9           **C.     Robo Call**

10          Complainant asserts that he possesses a recording of a robo call made by the Committee  
11     to district voters and alleges that the call lacked a required disclaimer. See Compl. at 1.  
12     Complainant, however, did not provide a recording of the call or give any specific description of  
13     the call. In response, the Committee notes that the Complaint does not refer to a specific robo  
14     call, and asserts that all of its communications had the proper disclaimer. Resp. at 1.

15          Because of the limited information available, there does not appear to be an adequate  
16     basis on which to recommend that the Commission proceed with the matter, and we recommend,  
17     therefore, that the Commission exercise its prosecutorial discretion and dismiss the Complaint as  
18     to the robo call and close the file.

19     **III.    RECOMMENDATIONS**


- 20           1.     Dismiss the allegation that Grant Lally for Congress, Inc., and Christopher Nolan  
21                 in his official capacity as treasurer violated 52 U.S.C. § 30120(a) (formerly  
22                 2 U.S.C. § 441d(a)) in connection with the Grant Lally for Congress website and  
23                 issue a letter of caution;  
24

<sup>7</sup> Further, because Wordpress blogs are cost-free, see <https://wordpress.com/>, the blog (whether posted by a political committee or any other person) does not appear to require a disclaimer as a "public communication" that expressly advocated Lally's election because it was not "placed for a fee on another person's Web site." See 11 C.F.R. §§ 100.22, 100.26, 110.11(a)(2).

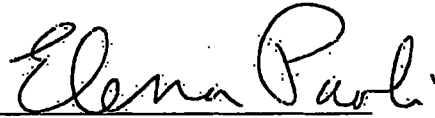
2. Dismiss the allegations that Grant Lally for Congress, Inc., and Christopher Nolan in his official capacity as treasurer violated 52 U.S.C. § 30120(a) (formerly 2 U.S.C. § 441d(a)) in connection with the Wordpress blog and robo call;
3. Approve the attached Factual and Legal Analysis;
4. Approve the appropriate letters; and
5. Close the file.

Date

3/18/15

  
Kathleen Guith  
Deputy Associate General Counsel for  
Enforcement

  
Mark Allen  
Acting Assistant General Counsel

  
Elena Paoli  
Attorney

Attachments:

1. Current Wordpress blog page

**isupportlallyforcongress.wordpress.com is no longer available.**

The authors have deleted this site.

Automatic

**GET STARTED**

Create your own website

An Automatic Opus

**DO MORE**

- Features
- Store
- Themes
- Developers

**COMMUNITY**

- Support
- Forums
- WordCamps
- WordPress.org

**COMPANY**

- Our Story
- Privacy
- Terms of Service
- Matt Mullenweg

**FROM OUR BLOGS**

- Community Pool
- Wall
- Troll Tales
- Great Interviews Start with Great Questions

